
By: **Senators Miller, Astle, Britt, Currie, Della, Forehand, Frosh, Garagiola, Giannetti, Gladden, Grosfeld, Hogan, Hollinger, Kelley, Klausmeier, McFadden, Middleton, Pinsky, Stone, and Teitelbaum**

Introduced and read first time: February 6, 2004

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - People's Insurance Counsel**

3 FOR the purpose of providing for the appointment, term of office, qualifications, and
4 salary of the People's Insurance Counsel; requiring the People's Insurance
5 Counsel to take a certain oath; requiring the State budget to provide certain
6 money for the Office of People's Insurance Counsel to hire necessary staff;
7 authorizing the Office of People's Insurance Counsel to retain or hire certain
8 experts; requiring the People's Insurance Counsel to administer and operate the
9 Office of People's Insurance Counsel; establishing the People's Insurance
10 Counsel Fund; requiring the Maryland Insurance Commissioner to collect a
11 certain assessment from certain health insurers, life insurers, and property and
12 casualty insurers and deposit the amounts collected into the People's Insurance
13 Counsel Fund; establishing the duties of the Office of People's Insurance
14 Counsel; establishing certain rights of the Office of People's Counsel in
15 appearances before the Commissioner and courts on behalf of insurance
16 consumers; authorizing the Office of People's Insurance Counsel to appear
17 before any unit of State or federal government to protect the interests of
18 insurance consumers; providing that the Office of People's Insurance Counsel
19 shall have full access to certain records under certain circumstances; providing
20 that the Office of People's Insurance Counsel is entitled to the assistance of
21 certain staff under certain circumstances; authorizing the Office of People's
22 Insurance Counsel to recommend certain legislation to the General Assembly;
23 requiring the Office of People's Insurance Counsel to report on its activities to
24 the Governor and the General Assembly on or before a certain date each year;
25 defining certain terms; requiring the Governor to process a certain budget
26 amendment; and generally relating to the People's Insurance Counsel.

27 BY adding to

28 Article - Insurance

29 Section 2-601 through 2-608, inclusive, to be under the new subtitle "Subtitle 6.

30 People's Insurance Counsel"

31 Annotated Code of Maryland

32 (2003 Replacement Volume)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Insurance**

4 SUBTITLE 6. PEOPLE'S INSURANCE COUNSEL.

5 2-601.

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) (1) "HEALTH INSURER" MEANS AN INSURER THAT HOLDS A
9 CERTIFICATE OF AUTHORITY ISSUED BY THE COMMISSIONER TO ENGAGE IN THE
10 BUSINESS OF HEALTH INSURANCE.

11 (2) "HEALTH INSURER" INCLUDES:

12 (I) A HEALTH MAINTENANCE ORGANIZATION OPERATING UNDER
13 A CERTIFICATE OF AUTHORITY ISSUED BY THE COMMISSIONER UNDER TITLE 19,
14 SUBTITLE 7 OF THE HEALTH - GENERAL ARTICLE;

15 (II) A NONPROFIT HEALTH SERVICE PLAN OPERATING UNDER
16 TITLE 14, SUBTITLE 1 OF THIS ARTICLE; AND

17 (III) A DENTAL PLAN OPERATING UNDER TITLE 14, SUBTITLE 4 OF
18 THIS ARTICLE.

19 (C) "INSURANCE CONSUMERS" MEANS PERSONS INSURED UNDER POLICIES
20 OR CONTRACTS OF HEALTH INSURANCE, LIFE INSURANCE, OR PROPERTY AND
21 CASUALTY INSURANCE ISSUED OR DELIVERED IN THE STATE BY A HEALTH INSURER,
22 LIFE INSURER, OR PROPERTY AND CASUALTY INSURER.

23 (D) (1) "INSURER" MEANS AN INSURER OR OTHER ENTITY AUTHORIZED TO
24 ENGAGE IN THE INSURANCE BUSINESS IN THE STATE UNDER A CERTIFICATE OF
25 AUTHORITY ISSUED BY THE COMMISSIONER.

26 (2) "INSURER" INCLUDES:

27 (I) A HEALTH MAINTENANCE ORGANIZATION OPERATING UNDER
28 A CERTIFICATE OF AUTHORITY ISSUED BY THE COMMISSIONER UNDER TITLE 19,
29 SUBTITLE 7 OF THE HEALTH - GENERAL ARTICLE;

30 (II) A NONPROFIT HEALTH SERVICE PLAN OPERATING UNDER
31 TITLE 14, SUBTITLE 1 OF THIS ARTICLE;

32 (III) A DENTAL PLAN OPERATING UNDER TITLE 14, SUBTITLE 4 OF
33 THIS ARTICLE; AND

34 (IV) THE MARYLAND AUTOMOBILE INSURANCE FUND.

1 (E) "LIFE INSURER" MEANS AN INSURER THAT HOLDS A CERTIFICATE OF
2 AUTHORITY ISSUED BY THE COMMISSIONER TO ENGAGE IN THE BUSINESS OF LIFE
3 INSURANCE.

4 (F) (1) "PREMIUM" HAS THE MEANING STATED IN § 1-101 OF THIS ARTICLE
5 TO THE EXTENT IT IS ALLOCABLE TO THIS STATE.

6 (2) "PREMIUM" INCLUDES ANY AMOUNTS PAID TO A HEALTH
7 MAINTENANCE ORGANIZATION AS COMPENSATION ON A PREDETERMINED BASIS
8 FOR PROVIDING SERVICES TO MEMBERS AND SUBSCRIBERS AS SPECIFIED IN TITLE
9 19, SUBTITLE 7 OF THE HEALTH - GENERAL ARTICLE TO THE EXTENT IT IS
10 ALLOCABLE TO THIS STATE.

11 (G) (1) "PROPERTY AND CASUALTY INSURER" MEANS AN INSURER THAT
12 HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE COMMISSIONER TO ENGAGE
13 IN THE BUSINESS OF PROPERTY AND CASUALTY INSURANCE.

14 (2) "PROPERTY AND CASUALTY INSURER" INCLUDES THE MARYLAND
15 AUTOMOBILE INSURANCE FUND.

16 2-602.

17 (A) THE GOVERNOR SHALL APPOINT THE PEOPLE'S INSURANCE COUNSEL
18 WITH THE ADVICE AND CONSENT OF THE SENATE.

19 (B) (1) THE TERM OF OFFICE OF THE PEOPLE'S INSURANCE COUNSEL IS 3
20 YEARS.

21 (2) THE GOVERNOR MAY REMOVE THE PEOPLE'S INSURANCE COUNSEL
22 FOR INCOMPETENCE, MISCONDUCT, OR OTHER GOOD CAUSE.

23 (C) THE PEOPLE'S INSURANCE COUNSEL:

24 (1) SHALL HAVE BEEN ADMITTED TO PRACTICE LAW IN THE STATE;

25 (2) SHALL HAVE KNOWLEDGE OF AND EXPERTISE IN THE INSURANCE
26 BUSINESS; AND

27 (3) MAY NOT HOLD AN OFFICIAL RELATION TO OR HAVE ANY
28 PECUNIARY INTEREST IN AN INSURER.

29 (D) BEFORE TAKING OFFICE, THE PEOPLE'S INSURANCE COUNSEL SHALL
30 TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

31 (E) THE PEOPLE'S INSURANCE COUNSEL SHALL DEVOTE FULL TIME TO THE
32 DUTIES OF OFFICE.

33 (F) THE PEOPLE'S INSURANCE COUNSEL IS ENTITLED TO A SALARY AS
34 PROVIDED IN THE STATE BUDGET.

1 2-603.

2 (A) THE STATE BUDGET SHALL PROVIDE SUFFICIENT MONEY FOR THE
3 OFFICE OF PEOPLE'S INSURANCE COUNSEL TO HIRE NECESSARY STAFF.

4 (B) THE OFFICE OF PEOPLE'S INSURANCE COUNSEL MAY RETAIN AS
5 NECESSARY FOR A PARTICULAR MATTER OR HIRE EXPERTS IN THE FIELD OF
6 INSURANCE REGULATION, INCLUDING ACCOUNTANTS, ACTUARIES, AND LAWYERS.

7 (C) THE PEOPLE'S INSURANCE COUNSEL SHALL ADMINISTER AND OPERATE
8 THE OFFICE OF PEOPLE'S INSURANCE COUNSEL.

9 2-604.

10 (A) THE COMMISSIONER SHALL:

11 (1) COLLECT AN ANNUAL ASSESSMENT FROM EACH HEALTH INSURER,
12 LIFE INSURER, AND PROPERTY AND CASUALTY INSURER FOR THE COSTS AND
13 EXPENSES INCURRED BY THE OFFICE OF PEOPLE'S INSURANCE COUNSEL IN
14 CARRYING OUT ITS DUTIES UNDER THIS SUBTITLE; AND

15 (2) DEPOSIT THE AMOUNTS COLLECTED INTO THE PEOPLE'S
16 INSURANCE COUNSEL FUND ESTABLISHED IN § 2-605 OF THIS SUBTITLE.

17 (B) THE ASSESSMENT PAYABLE BY A HEALTH INSURER, LIFE INSURER, OR
18 PROPERTY AND CASUALTY INSURER IS THE PRODUCT OF THE FRACTION OBTAINED
19 BY DIVIDING THE GROSS DIRECT PREMIUM WRITTEN BY THE HEALTH INSURER, LIFE
20 INSURER, OR PROPERTY AND CASUALTY INSURER IN THE PRIOR CALENDAR YEAR BY
21 THE TOTAL AMOUNT OF GROSS DIRECT PREMIUM WRITTEN BY ALL HEALTH
22 INSURERS, LIFE INSURERS, AND PROPERTY AND CASUALTY INSURERS IN THE PRIOR
23 CALENDAR YEAR, MULTIPLIED BY THE AMOUNT OF THE TOTAL COSTS AND
24 EXPENSES UNDER SUBSECTION (A)(1) OF THIS SECTION.

25 2-605.

26 (A) IN THIS SECTION, "FUND" MEANS THE PEOPLE'S INSURANCE COUNSEL
27 FUND.

28 (B) THERE IS A PEOPLE'S INSURANCE COUNSEL FUND.

29 (C) THE PURPOSE OF THE FUND IS TO PAY ALL COSTS AND EXPENSES
30 INCURRED BY THE OFFICE OF PEOPLE'S INSURANCE COUNSEL IN CARRYING OUT ITS
31 DUTIES UNDER THIS SUBTITLE.

32 (D) THE FUND SHALL CONSIST OF:

33 (1) ALL REVENUE DEPOSITED INTO THE FUND THAT IS RECEIVED
34 THROUGH THE IMPOSITION AND COLLECTION OF THE ASSESSMENT UNDER § 2-604
35 OF THIS SUBTITLE; AND

1 (2) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES
2 FOR THE FUND.

3 (E) (1) EXPENDITURES FROM THE FUND TO COVER THE COSTS AND
4 EXPENSES INCURRED BY THE OFFICE OF PEOPLE'S INSURANCE COUNSEL IN
5 CARRYING OUT ITS DUTIES UNDER THIS SUBTITLE MAY BE MADE ONLY:

6 (I) WITH AN APPROPRIATION FROM THE FUND APPROVED BY THE
7 GENERAL ASSEMBLY IN THE ANNUAL STATE BUDGET; OR

8 (II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN §
9 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

10 (2) (I) IF, IN ANY GIVEN FISCAL YEAR, THE AMOUNT OF THE
11 ASSESSMENT REVENUE COLLECTED BY THE COMMISSIONER AND DEPOSITED INTO
12 THE FUND EXCEEDS THE ACTUAL COSTS AND EXPENSES INCURRED BY THE OFFICE
13 OF PEOPLES'S INSURANCE COUNSEL TO CARRY OUT ITS DUTIES UNDER THIS
14 SUBTITLE, THE EXCESS AMOUNT SHALL BE CARRIED FORWARD WITHIN THE FUND
15 FOR THE PURPOSE OF REDUCING THE ASSESSMENT IMPOSED BY THE
16 COMMISSIONER FOR THE FOLLOWING FISCAL YEAR.

17 (II) IF, IN ANY GIVEN FISCAL YEAR, THE AMOUNT OF THE
18 ASSESSMENT REVENUE COLLECTED BY THE COMMISSIONER AND DEPOSITED INTO
19 THE FUND IS INSUFFICIENT TO COVER THE ACTUAL EXPENDITURES INCURRED BY
20 THE OFFICE OF PEOPLE'S INSURANCE COUNSEL TO CARRY OUT ITS DUTIES UNDER
21 THIS SUBTITLE BECAUSE OF AN UNFORESEEN EMERGENCY, AND EXPENDITURES
22 ARE MADE IN ACCORDANCE WITH THE BUDGET AMENDMENT PROCEDURE
23 PROVIDED FOR IN § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AN
24 ADDITIONAL ASSESSMENT MAY BE MADE.

25 (F) (1) THE STATE TREASURER IS THE CUSTODIAN OF THE FUND.

26 (2) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME
27 MANNER AS STATE FUNDS.

28 (3) THE STATE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM
29 THE COMMISSIONER INTO THE FUND.

30 (G) (1) THE FUND IS A CONTINUING, NONLAPSING FUND AND IS NOT
31 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AND MAY
32 NOT BE DEEMED A PART OF THE GENERAL FUND OF THE STATE.

33 (2) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO:

34 (I) THE GENERAL FUND OF THE STATE; OR

35 (II) A SPECIAL FUND OF THE STATE, UNLESS OTHERWISE
36 PROVIDED BY LAW.

1 2-606.

2 (A) (1) THE OFFICE OF PEOPLE'S INSURANCE COUNSEL SHALL EVALUATE
3 EACH MATTER PENDING BEFORE THE COMMISSIONER TO DETERMINE IF THE
4 INTERESTS OF INSURANCE CONSUMERS ARE AFFECTED.

5 (2) IF THE OFFICE OF PEOPLE'S INSURANCE COUNSEL CONSIDERS THE
6 INTERESTS OF INSURANCE CONSUMERS TO BE AFFECTED, THE OFFICE OF PEOPLE'S
7 INSURANCE COUNSEL SHALL APPEAR BEFORE THE COMMISSIONER AND COURTS ON
8 BEHALF OF INSURANCE CONSUMERS IN EACH MATTER OR PROCEEDING OVER
9 WHICH THE COMMISSIONER HAS ORIGINAL JURISDICTION.

10 (B) (1) THE OFFICE OF PEOPLE'S INSURANCE COUNSEL SHALL REVIEW ANY
11 PROPOSED RATE INCREASE OF 10% OR MORE FILED WITH THE COMMISSIONER BY A
12 HEALTH INSURER, LIFE INSURER, OR PROPERTY AND CASUALTY INSURER.

13 (2) IF THE OFFICE OF PEOPLE'S INSURANCE COUNSEL FINDS THAT THE
14 PROPOSED RATE INCREASE IS EXCESSIVE OR OTHERWISE ADVERSE TO THE
15 INTERESTS OF INSURANCE CONSUMERS, THE OFFICE OF PEOPLE'S INSURANCE
16 COUNSEL SHALL APPEAR BEFORE THE COMMISSIONER ON BEHALF OF INSURANCE
17 CONSUMERS IN ANY HEARING ON THE RATE FILING.

18 (C) AS THE OFFICE OF PEOPLE'S INSURANCE COUNSEL CONSIDERS
19 NECESSARY, THE OFFICE OF PEOPLE'S INSURANCE COUNSEL SHALL CONDUCT
20 INVESTIGATIONS AND REQUEST THE COMMISSIONER TO INITIATE PROCEEDINGS TO
21 PROTECT THE INTERESTS OF INSURANCE CONSUMERS.

22 2-607.

23 (A) IN APPEARANCES BEFORE THE COMMISSIONER AND COURTS ON BEHALF
24 OF INSURANCE CONSUMERS, THE OFFICE OF PEOPLE'S INSURANCE COUNSEL HAS
25 THE RIGHTS OF COUNSEL FOR A PARTY TO THE PROCEEDING, INCLUDING THE RIGHT
26 TO:

27 (1) ADMINISTER OATHS;

28 (2) EXAMINE INDIVIDUALS UNDER OATH; AND

29 (3) ISSUE SUBPOENAS FOR THE ATTENDANCE OF WITNESSES TO
30 TESTIFY OR THE PRODUCTION OF EVIDENCE.

31 (B) THE OFFICE OF PEOPLE'S INSURANCE COUNSEL MAY APPEAR BEFORE
32 ANY FEDERAL OR STATE UNIT TO PROTECT THE INTERESTS OF INSURANCE
33 CONSUMERS.

34 (C) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE AND
35 CONSISTENT WITH ANY APPLICABLE FREEDOM OF INFORMATION ACT, THE OFFICE
36 OF PEOPLE'S INSURANCE COUNSEL SHALL HAVE FULL ACCESS TO THE
37 COMMISSIONER'S RECORDS, INCLUDING RATE FILINGS AND SUPPLEMENTARY RATE
38 INFORMATION FILED WITH THE COMMISSIONER UNDER TITLE 11 OF THIS ARTICLE,

1 AND SHALL HAVE THE BENEFIT OF ALL OTHER FACILITIES OR INFORMATION OF THE
2 COMMISSIONER.

3 (2) THE OFFICE OF PEOPLE'S INSURANCE COUNSEL IS ENTITLED TO
4 THE ASSISTANCE OF THE COMMISSIONER'S STAFF, IF THE STAFF DETERMINES THAT
5 THE ASSISTANCE IS CONSISTENT WITH THE STAFF'S RESPONSIBILITIES AND IF THE
6 STAFF AND THE OFFICE OF PEOPLE'S INSURANCE COUNSEL AGREE THAT THE
7 ASSISTANCE, IN A PARTICULAR MATTER, IS CONSISTENT WITH THEIR RESPECTIVE
8 INTERESTS.

9 (D) THE OFFICE OF PEOPLE'S INSURANCE COUNSEL MAY RECOMMEND TO
10 THE GENERAL ASSEMBLY LEGISLATION ON ANY MATTER THAT THE OFFICE OF
11 PEOPLE'S INSURANCE COUNSEL CONSIDERS WOULD PROMOTE THE INTERESTS OF
12 INSURANCE CONSUMERS.

13 2-608.

14 ON OR BEFORE JANUARY 1 OF EACH YEAR, THE OFFICE OF PEOPLE'S
15 INSURANCE COUNSEL SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE
16 WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY
17 ON THE ACTIVITIES OF THE OFFICE OF PEOPLE'S INSURANCE COUNSEL DURING THE
18 PRIOR FISCAL YEAR.

19 SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall
20 process a budget amendment in accordance with § 7-209 of the State Finance and
21 Procurement Article for \$1,000,000 in special funds for the purpose of establishing
22 and operating the Office of People's Insurance Counsel.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2004.